



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 05259-99

24 April 2000

LT [REDACTED] USN  
[REDACTED]  
[REDACTED]

Dear Lieuten[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 10 January 2000, a copy of which is attached. The Board also considered your letter dated 30 March 2000.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. They noted that the reporting senior did not say you had no mid-term counseling, rather his endorsement of 23 February 1998 stated you were "not told during mid term counseling which grades [you] would receive." Finally, they were unable to accept your allegation that the reporting senior "evaluated performances by personnel in zone for promotion, not by specific achievements or accomplishments." In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

5259.99

1610  
PERS-311  
10 January 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: LT [REDACTED], R., USN [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his original fitness report for the period 1 February 1997 to 31 January 1998.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report in question to be on file. It is signed by the member acknowledging the contents of the report and his right to submit a statement. The member's statement and first endorsement are reflected in the member's record.

b. The member request the removal of his fitness report for the period 1 February 1997 to 31 January 1998 because it was not an accurate and fair evaluation of his performance and leadership. In reviewing petitions that question the exercise of the reporting senior's evaluation responsibilities, we must determine if the reporting senior abused his/her discretionary authority. For us to recommend relief the petitioner has to show that either there is no rational support for the reporting senior's action or that the reporting senior acted for an illegal or improper purpose. The petitioner must do more than just assert the improper exercise of discretion; he must provide evidence to support the claim. I do not believe Lieutenant [REDACTED] has done so. The fitness report itself represents the opinion of the reporting senior. Nothing provided in the petition shows that the reporting senior acted for illegal or improper purposes or that the report lacked rational support. The reporting senior clearly explains in her first endorsement to the member's statement her reason for writing the report as she did.

c. A fitness report does not have to be consistent with previous or subsequent reports. Each report represents the judgment of the reporting senior during a particular reporting period.

d. Whether the member was counseled or not does not invalidate the fitness report. The reporting senior did note that they met monthly to monitor the operation of his command.

e. The fact that the member perceives the fitness report to be career damaging and enhancement of chances for promotion is not sufficient reason for the removal of a fitness report.

f. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged.

[REDACTED]

Head, Performance  
Evaluation Branch